

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 15-0275V

Filed: August 11, 2015

Unpublished

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MAUREEN McGRATH,

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Petitioner,

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Ruling on Entitlement; Concession;  
Tetanus, Diphtheria, Pertussis ("Tdap")  
Vaccination; Shoulder Injury Related  
To Vaccine Administration ("SIRVA");  
Special Processing Unit ("SPU")

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

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Respondent.

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*Isaiah Kalinowski, Maglio Christopher Toale, PA, Washington, DC, for petitioner.  
Alexis Babcock, U.S. Department of Justice, Washington, DC, for respondent.*

### **RULING ON ENTITLEMENT**<sup>1</sup>

**Vowell**, Chief Special Master:

On March 17, 2015, Maureen McGrath filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> [the "Vaccine Act" or "Program"]. Petitioner alleges that she suffered "injuries resulting from adverse effects" of her August 28, 2012 Tdap vaccination, including a tendon tear, and left shoulder pain. Petition at 1, ¶¶ 3, 7. Petitioner further alleges that she experienced the residual effects of her injury for more than six months, has filed no other action for this injury, and has received no prior award or settlement for this injury. Petition, ¶¶ 10, 13-14. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On August 10, 2015, respondent filed her Rule 4(c) report in which she concedes that petitioner is entitled to compensation in this case. Respondent's Rule 4(c) Report

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<sup>1</sup> Because this unpublished ruling contains a reasoned explanation for the action in this case, I intend to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

at 4. Specifically, respondent “concludes that Ms. McGrath suffered an injury of Shoulder Injury Related to Vaccine Administration, and that the preponderance of the medical evidence indicates that the injury was casually related to the vaccination. Therefore, compensation is appropriate.” *Id.* at 3-4.

**In view of respondent’s concession and the evidence before me, I find that petitioner is entitled to compensation.**

**s/Denise K. Vowell**  
Denise K. Vowell  
Chief Special Master